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Regulating Artificial Intelligence in India: Need for a Rights-Based Legal Framework

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Abstract

The rapid proliferation of artificial intelligence (AI) technologies in India presents unprecedented challenges to constitutional rights and individual freedoms. While India has emerged as a significant player in AI development and deployment, the absence of a comprehensive legal framework leaves fundamental rights vulnerable to algorithmic decision-making systems. This paper examines the urgent need for a rights-based regulatory framework for AI in India, analyzing the inadequacies of existing legal mechanisms and proposing a constitutional approach grounded in the protection of fundamental rights. Drawing upon comparative analysis of regulatory models from the European Union and recent jurisprudential developments in India, this paper argues that AI regulation must prioritize human dignity, equality, and privacy as foundational principles. The proposed framework advocates for transparent algorithmic accountability, mandatory impact assessments, and enforceable rights of explanation and contestation, ensuring that technological advancement does not compromise constitutional guarantees.

Keywords: - Fundamental Rights, Article 21, Human Dignity, Responsible AI, Impact Assessments, Transparency

I. INTRODUCTION

Artificial intelligence has transformed from a theoretical construct to a pervasive reality that shapes critical aspects of human existence. In India, AI systems increasingly govern decisions affecting employment, credit allocation, criminal justice, healthcare access, and social welfare distribution. The National Strategy for Artificial Intelligence, released by NITI Aayog (2018), envisions AI as a transformative force for economic growth and social development. However, this optimistic vision has not been accompanied by corresponding legal safeguards to protect fundamental rights guaranteed under the Constitution of India.

The constitutional framework established by the founding fathers did not anticipate algorithmic governance. Yet, the principles enshrined in Part III of the Constitution particularly the rights to equality (Article 14), life and personal liberty (Article 21), and freedom of speech and expression (Article 19) remain relevant and must be interpreted expansively to address digital age challenges. The Supreme Court of India's landmark judgment in *Justice K.S. Puttaswamy v. Union of India* (2017) recognized privacy as a fundamental right, creating constitutional foundations for data protection. However, the decision's implications for AI governance remain underexplored in Indian jurisprudence.

This paper contends that India requires a comprehensive, rights-based legal framework for AI regulation that goes beyond sectoral approaches and data protection measures. The argument proceeds in four parts:

- First, examining the current regulatory landscape;
- Second, identifying fundamental rights challenges posed by ai;
- Third, proposing a rights-based framework grounded in constitutional principles; and fourth, offering specific recommendations for legislative and institutional reform.

II. THE CURRENT AI REGULATORY LANDSCAPE IN INDIA

India's approach to AI regulation remains fragmented and reactive. The Digital Personal Data Protection Act, 2023

(DPDPA) represents the most significant legislative intervention in digital governance, yet it addresses AI tangentially rather than comprehensively. While the DPDPA establishes principles for data processing, it does not specifically regulate algorithmic decision-making or impose obligations on AI systems that make consequential decisions affecting individuals (Srikrishna Committee, 2018).

NITI Aayog's Responsible AI Strategy (2021) offers ethical principles for AI development, emphasizing safety, reliability, equality, inclusivity, privacy, security, and transparency. However, these remain advisory rather than legally enforceable standards. The absence of statutory backing renders these principles aspirational, lacking mechanisms for implementation, compliance monitoring, or remedy for violations.

Sectoral regulations provide limited oversight in specific domains. The Reserve Bank of India established a committee in December 2024 to develop a Framework for Responsible and Ethical Enablement of Artificial Intelligence (FREE-AI) in financial services. Similarly, the Ministry of Electronics and Information Technology has proposed frameworks for responsible AI deployment in government services. Yet these sectoral approaches create regulatory gaps, particularly for AI applications in critical areas such as employment, education, and criminal justice, where algorithmic decisions can profoundly impact fundamental rights (Srikanth, 2023).

III. FUNDAMENTAL RIGHTS CHALLENGES POSED BY AI

AI systems threaten constitutional rights in multifaceted ways. The right to equality under Article 14 faces particular vulnerability. Algorithmic bias, often embedded in training data reflecting historical discrimination, can perpetuate and amplify existing inequalities (Barocas & Selbst, 2016). Studies have documented discriminatory outcomes in AI-driven hiring platforms, credit scoring systems, and predictive policing tools. The Supreme Court's expanded interpretation of Article 14 to prohibit arbitrary state action in *E.P. Royappa v. State of Tamil Nadu* (1974) demands scrutiny of algorithmic decision-making for arbitrary or discriminatory outcomes.

The right to privacy, now recognized as fundamental in *Puttaswamy* (2017), encompasses informational privacy, decisional autonomy, and dignity. AI systems that process vast quantities of personal data for behavioral prediction and profiling threaten all three dimensions. The Court's four-fold test for privacy invasion legality, legitimate aim, proportionality, and procedural safeguards provides a constitutional framework for evaluating AI deployments (Bhatia, 2019).

Article 21's guarantee of life and personal liberty extends to various unenumerated rights including the right to livelihood, human dignity, and fair procedure. Automated decision-making in employment, particularly algorithmic hiring and performance evaluation systems, implicates livelihood rights. The lack of transparency in algorithmic processes denies individuals fair procedure a core Article 21 requirement articulated in *Maneka Gandhi v. Union of India* (1978). Human dignity, central to the constitutional vision, faces erosion when individuals become subjects of opaque algorithmic classifications and predictions beyond their understanding or control.

IV. COMPARATIVE PERSPECTIVES: THE EU AI ACT AS A MODEL

The European Union's Artificial Intelligence Act (2024) offers valuable insights for India's regulatory framework. The Act adopts a risk-based approach, categorizing AI systems by their potential impact on fundamental rights and safety (European Parliament, 2024). High-risk AI systems those affecting employment, education, law enforcement, and essential services face stringent requirements including transparency obligations, human oversight, accuracy standards, and cybersecurity measures.

Particularly relevant for India is the Act's prohibition of AI systems that manipulate human behavior, exploit vulnerabilities, or enable social scoring by public authorities. These prohibitions recognize that certain AI applications are fundamentally incompatible with human rights and democratic values (Veale & Borgesius, 2021). The enforcement mechanism, empowering national supervisory authorities with investigative and corrective powers, provides a template for institutional design.

However, India must adapt rather than adopt the EU model. Constitutional context, developmental priorities, and institutional capacities differ significantly. India's federal structure necessitates coordination between Central and State authorities. Resource constraints require graduated implementation timelines. Yet the EU Act's fundamental premise that AI regulation must center on human rights protection resonates with India's constitutional commitments.

V. PROPOSED RIGHTS-BASED FRAMEWORK FOR INDIA

A rights-based AI regulatory framework for India should be anchored in constitutional principles while addressing practical implementation challenges. The framework must establish substantive rights, procedural safeguards, and institutional mechanisms for enforcement.

First, the framework must recognize explicit rights for individuals subjected to AI systems. These include:

- The right to be informed when decisions affecting them are made by AI;
- The right to meaningful explanation of algorithmic decisions;
- The right to human review of consequential automated decisions;
- The right to contest and seek correction of AI-driven outcomes; and
- The right to opt-out of automated decision-making in contexts affecting fundamental rights (Kaminski, 2019). These rights translate constitutional guarantees into actionable protections in the AI context.

Second, AI system developers and deployers must bear obligations ensuring rights protection. Mandatory algorithmic impact assessments should be required for high-risk AI applications, evaluating potential effects on fundamental rights before deployment. These assessments must address bias risks, privacy implications, and fairness concerns, with findings made

accessible to affected communities and regulatory authorities (Reisman et al., 2018). Developers must maintain comprehensive documentation of AI system design, training data, and decision-making logic, enabling meaningful oversight and accountability.

Third, transparency requirements must balance legitimate interests in algorithmic explainability with trade secret protections. The framework should mandate disclosure of:

- Factors and logic underlying automated decisions;
- Data sources and quality measures;
- Known limitations and error rates; and
- Human oversight mechanisms.

This information must be provided in accessible formats, recognizing that technical complexity should not shield AI systems from scrutiny.

VI. INSTITUTIONAL ARCHITECTURE AND IMPLEMENTATION

Effective AI regulation requires robust institutional mechanisms. India should establish an independent AI Regulatory Authority with powers to:

- Develop and enforce technical standards for AI systems;
- Conduct investigations into rights violations;
- Impose penalties for non-compliance;
- Maintain a public registry of high-risk AI systems; and
- Coordinate with sectoral regulators.

The Authority's composition should ensure technical expertise, legal competence, and representation from civil society and affected communities.

Judicial capacity building constitutes another critical element. Courts must develop expertise in adjudicating AI-related rights claims. This requires specialized training programs, appointment of technical experts as assessors, and development of evidentiary standards for algorithmic audits and bias detection. The framework should clarify burden of proof allocation, recognizing that information asymmetries favor AI system operators (Pasquale, 2015).

Public participation mechanisms must ensure affected communities shape regulatory development. The framework should mandate public consultations on proposed AI deployments in government services, establish grievance redressal mechanisms accessible to marginalized populations, and create pathways for civil society oversight of algorithmic systems. India's experience with public interest litigation provides a foundation for innovative procedural mechanisms enabling collective challenges to rights-violating AI systems.

VII. CONCLUSION

The imperative for rights-based AI regulation in India stems not from technophobia but from constitutional fidelity. The transformative potential of AI need not conflict with fundamental rights protection; indeed, sustainable AI innovation requires public trust grounded in robust rights safeguards. The proposed framework seeks to operationalize constitutional principles in the algorithmic age, ensuring that technological advancement serves rather than subverts democratic values.

India stands at a critical juncture. The choices made today regarding AI governance will shape the relationship between technology, rights, and democracy for generations. A comprehensive, rights-based legal framework grounded in constitutional principles, informed by comparative insights, and attuned to India's unique context can position India as a global leader in responsible AI governance. The alternative regulatory drift and reactive measures risks entrenching algorithmic systems that undermine the constitutional vision of justice, liberty, equality, and fraternity. The Constitution's promise cannot be fulfilled if fundamental rights remain vulnerable to the vicissitudes of algorithmic decision-making. Now is the time for legislative and institutional action to ensure that artificial intelligence serves the people of India within a framework that honors their constitutional rights and human dignity.

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